

JS 44 (Rev. 10/20)

**CIVIL COVER SHEET**

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS** *Woodfin Palooza, LLC; Samantha Miller; Teri Miller; Kassandra Marie Cunningham; Natalie Rose; Desirae Jean Fenske*

**(b) County of Residence of First Listed Plaintiff** *Multnomah*  
(EXCEPT IN U.S. PLAINTIFF CASES)

**(c) Attorneys (Firm Name, Address, and Telephone Number)**  
*Geordie Duckler, OSB #873780*  
*9397 SW Tawdt St.*  
*Tigard OR 97223 503 546-8052*

**DEFENDANTS***Multnomah County*

County of Residence of First Listed Defendant *Multnomah*  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |                                       |                            |   |                                       |                                       |
|---------------------------------------|----------------------------|---|---------------------------------------|---------------------------------------|
| <b>PTF</b>                            | <b>DEF</b>                 |   | <b>PTF</b>                            | <b>DEF</b>                            |
| <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Citizen of This State   | <input checked="" type="checkbox"/> 4 | <input checked="" type="checkbox"/> 4 |
|                                       |                            | Incorporated or Principal Place of Business In This State     |                                       |                                       |
| <input type="checkbox"/> 2            | <input type="checkbox"/> 2 | Citizen of Another State                                      | <input type="checkbox"/> 5            | <input type="checkbox"/> 5            |
|                                       |                            | Incorporated and Principal Place of Business In Another State |                                       |                                       |
| <input type="checkbox"/> 3            | <input type="checkbox"/> 3 | Citizen or Subject of a Foreign Country                       | <input type="checkbox"/> 6            | <input type="checkbox"/> 6            |
|                                       |                            | Foreign Nation  |                                       |                                       |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input checked="" type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

**V. ORIGIN** (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

*42 USC Section 1983*

Brief description of cause:

*County's wrongful retention of plaintiffs' properties***VII. REQUESTED IN COMPLAINT:**

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$ *#3M*

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

*12/4/20*

SIGNATURE OF ATTORNEY OF RECORD

*Geordie Duckler***FOR OFFICE USE ONLY**

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_

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 Attorney for Plaintiffs

UNITED STATES DISTRICT COURT  
 FOR THE DISTRICT OF OREGON  
 PORTLAND DIVISION

WOOFIN PALOOZA, LLC; SAMANTHA MILLER; JERI MILLER; KASSANDRA MARIE CUNNINGHAM; NATALIE ROSE; and DEZIRAE JEAN FENSKE,  Plaintiffs,  vs.  MULTNOMAH COUNTY, a municipality,  Defendant.	) Case no. ) ) ) CIVIL RIGHTS COMPLAINT FOR ) EQUITABLE RELIEF AND DAMAGES ) ) Statutory Violation of Federal Civil Rights ) Act (42 U.S.C. Section 1983); Replevin ) (Fed.R.C.P. 64(b) and ORCP 83) ) ) ) JURY TRIAL DEMANDED ) ) )
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NATURE OF THE ACTION

1. This is a civil rights action brought under federal question jurisdiction to vindicate plaintiffs' rights and to make plaintiffs whole. Plaintiffs are an Oregon corporation and several individuals, all of whom are the sole and exclusive legal owners of valuable animals and other personal properties, the rights in which defendant has violated by defendant's wrongful retention of the properties, and the consequences of which have substantially and adversely affected plaintiffs' rights and interests and which violate federal statutory protections as to plaintiffs' civil rights of due process and ownership of property.

CIVIL RIGHTS COMPLAINT FOR EQUITABLE  
 RELIEF AND DAMAGES - 1

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JURISDICTION AND VENUE

2           2.       This Court has jurisdiction over the subject matter of this complaint pursuant to  
3 28 USC Section 1331 and 1343, based on the action arising under federal statute, specifically 42  
4 U.S.C. Section 1983, all as more specifically alleged below.

5           3.       The acts and transactions at issue here all occurred within Multnomah County,  
6 Oregon, such that venue for this action is appropriate in the Portland division of the Federal  
7 District Court for the District of Oregon under 28 U.S.C. Section 1391 and LR 3-2 b. Divisional  
8 venue lies with the Portland Division as a substantial part of the events giving rise to the claim  
9 occurred within the Portland Division. The Court has supplemental jurisdiction over the state law  
10 claim for replevin pursuant to 28 U.S.C. § 1367 because that claim is part of the same case or  
11 controversy as plaintiffs' claims under the Constitution and laws of the United States.  
12

PARTIES

13  
14           4.       Plaintiff Woofin Palooza, LLC (hereinafter "the corporate plaintiff") is, and at all  
15 material times herein has been, a domestic limited liability corporation incorporated in Oregon,  
16 operating in Multnomah County, Oregon, and the exclusive legal owner of 104 animals and other  
17 personal properties identified below as being at issue in this action.  
18

19           5.       Plaintiff Samantha Miller (hereinafter referred to as "plaintiff S. Miller") is, and  
20 at all times herein was, a private individual residing in Oregon and the exclusive legal owner of  
21 valuable personal properties in the form of "Keeva", a female terrier mix dog and "Lundy", a  
22 male Scottish terrier dog.  
23

24           6.       Plaintiff Jeri Miller (hereinafter referred to as "plaintiff J. Miller") is, and at all  
25 times herein was, a private individual residing in Oregon and the exclusive legal owner of  
26

1 valuable personal properties in the form of “Pixel”, a female Yorkshire terrier mix dog,  
2 “Dougal”, a male poodle mix dog, and “Finnegan”, a male Scottish terrier dog.

3 7. Plaintiff Kassandra Marie Cunningham (hereinafter referred to as “plaintiff  
4 Cunningham”) is, and at all times herein was, a private individual residing in Oregon and the  
5 exclusive legal owner of valuable personal properties in the form of “Ridley”, a male poodle  
6 dog, “Tali”, a female poodle dog, and “Ramsey”, a male terrier mix dog.

8 8. Plaintiff Natalie Rose (hereinafter referred to as “plaintiff Rose”) is, and at all  
9 times herein was, a private individual residing in Oregon and the exclusive legal owner of  
10 valuable personal properties in the form of “Zuess”, a male English mastiff dog, “Wilson”, a  
11 male mastidoodle dog, and “Bobbie”, a five month old kitten.

12 9. Plaintiff Dezirae Jean Fenske (hereinafter referred to as “plaintiff Fenske”) is, and  
13 at all times herein was, a private individual residing in Oregon and the exclusive legal owner of  
14 valuable personal properties in the form of “Whiskers”, a female Yorkshire terrier mix dog and  
15 “Tigress”, a female terrier Chihuahua mix dog.

16 10. Defendant Multnomah County (hereinafter referred to as “defendant County”) is,  
17 and at all times herein was, a governmental entity incorporated in the State of Oregon, operating  
18 in Multnomah County, Oregon, and acting under color of State law, including through the  
19 actions or omissions of a branch or department identified as “Multnomah County Animal  
20 Services” (hereinafter referred to as “MCAS”), through the actions or omissions of a branch or  
21 department identified as “Multnomah County District Attorney’s Office” (hereinafter referred to  
22 as “MCDA”), through the actions or omissions of a branch or department identified as  
23 “Multnomah County Sheriff’s Office” (hereinafter referred to as “MCSO”), and through the  
24  
25  
26

1 actions or omissions of the individual officers, agents, servants, and/or employees of each of  
2 those branches or departments.

3 11. At all relevant times, officers of Multnomah County Animal Services, Multnomah  
4 County Sheriff's Office, and the Multnomah County District Attorney's Office are alleged to  
5 have been acting as agents of defendant County acting in their official capacities, and were  
6 working as agents of the County and operating under color of state law and acting in the course  
7 and scope of their employment pursuant to authority delegated or conferred by defendant  
8 County.  
9

#### 10 GENERAL ALLEGATIONS

11 12. At all relevant times, the corporate plaintiff and the individual plaintiffs are and  
12 have been the exclusive legal owners of numerous items of personal property, specifically in the  
13 form of the 13 dogs and cats identified above in paragraphs 5-9 owned by the individual  
14 plaintiffs, and the 104 other dogs and cats owned by the corporate plaintiff (hereinafter "the  
15 animals"). In addition, at all relevant times, the corporate plaintiff is and has been the exclusive  
16 legal owner of corporate documents, desk files, folders, electronic files, computers, animal-  
17 related items, and miscellaneous office equipment (hereinafter "the inanimate properties"). All of  
18 the properties are hereinafter referred to collectively as "plaintiffs' properties".  
19

20 13. On August 10, 2020, defendant obtained a warrant from the Multnomah County  
21 Circuit Court to conduct a search and seizure of "neglected and/or abused animals" at 2310 NE  
22 82<sup>nd</sup> Avenue in Portland, Oregon, a location where plaintiffs' properties were being cared for,  
23 maintained, and temporarily housed. Defendant utilized the full assistance and services of  
24 MCAS, MCSO, and MCDA in obtaining and executing the warrant.  
25  
26

1           14.     The warrant specifically stated in relevant part that “Further, pursuant to the  
2 court's authority under ORS 167.345, the court specifically authorizes Multnomah County  
3 Animal Services and their agents to impound all neglected animals located on the premises under  
4 ORS 167.345(2), with the understanding that Multnomah County Animal Services may use other  
5 animal care providers as their agents to help fulfill their obligations under 167.345(4).”  
6

7           15.     Although state law under ORS 167.345(4)(a) expressly allows that “A court may  
8 order an animal impounded under subsection (2) of this section to be held at any animal care  
9 facility in the state”, the warrant did not so order any of the animals impounded “to be held at  
10 any animal care facility in the state.”

11           16.     On August 11, 2020, defendant then physically seized all of plaintiffs’ properties  
12 from where they were being cared for, maintained and temporarily housed at 2310 NE 82<sup>nd</sup>  
13 Avenue in Portland, Oregon. Defendant failed to comply with the specific directions of the  
14 warrant to only seize “neglected and/or abused animals”, and instead seized each and every  
15 animal on the premises regardless of whether the animal was or was not “neglected and/or  
16 abused”. Defendant, utilizing the full assistance of MCAS, MCSO, and MCDA, had the time,  
17 resources, knowledge, power, and opportunity to make careful and responsible determinations of  
18 whether any particular animal on the premises was “neglected and/or abused”, but failed or  
19 refused to do so.  
20

21           17.     Plaintiffs’ properties were impounded and the animals were taken to defendant’s  
22 animal shelter facility in Multnomah County where they were then held, ostensibly pursuant to  
23 ORS 167.345(2). Again, defendant utilized the full assistance and services of MCAS, MCSO,  
24 and MCDA in impounding and holding the animals.  
25  
26



1           18.     The animals, having been impounded under ORS 167.345(4)(a)(2), were therefore  
2 held at an animal care facility in disregard of, and antagonism to, the warrant authorizing their  
3 seizure not lawfully authorizing any “holding” at such a facility.

4           19.     In addition, Multnomah County Code (“MCC”) Section 13.505(B) stated as of  
5 August 11, 2020 that “Any animal may be impounded and held at the facility when it is the  
6 subject of a violation of this chapter, when an animal requires protective custody and care  
7 because of mistreatment or neglect by its owner or keeper or when otherwise ordered impounded  
8 by a court, a hearings officer, or the director.”

9           20.     In addition, MCC 13.505(D)(1) states that impoundment is subject to specific  
10 holding period and notice requirements in that “an animal bearing identification of ownership  
11 shall be held for 144 hours from the time of impoundment, and under which defendant was then  
12 statutorily required to then make reasonable efforts by phone to give notice of the impoundment  
13 to plaintiffs as the animals’ owners or keepers, and under which defendant was also statutorily  
14 obligated to advise plaintiffs of the impoundment, the date by which redemption must be made,  
15 and the fees payable prior to redemption release”.

16           21.     In addition, MCC 13.505(E)(1) specifically states in relevant part that “Any  
17 impounded animal shall be released to the owner or keeper or the owner's or keeper's authorized  
18 representative upon payment of impoundment, care, rabies, vaccination deposits, license fees,  
19 past due fines, and all fees and deposits related to potentially dangerous dog regulations...”

20           22.     Upon learning of plaintiffs’ animals’ retention at defendant’s shelter, a letter was  
21 sent to defendant dated August 14, 2020 which:

22                   a) identified all of the applicable statutory requirements;  
23  
24  
25  
26

- 1           b) demanded compliance with the specific code sections involved including the  
 2           requirements of MCC 13.505(D)(1);  
 3           c) demanded defendant's provision of the required information in writing as to  
 4           plaintiffs' properties;  
 5           d) tendered payment, per MCC 13.505(E)(1), for the cost of the impoundment,  
 6           care, rabies, vaccination deposits, license fees, past due fines, and all fees and  
 7           deposits related to potentially dangerous dog regulations as to every one of the  
 8           animals at issue; and,  
 9           e) demanded, per MCC 13.505(E)(1), that every one of the impounded animals  
 10           therefore be immediately released back to plaintiffs.  
 11

12           23.     On August 17, 2020, the date on which the statutory 144 hours had thereby passed  
 13           since plaintiffs' properties had been impounded, defendant did not respond to the letter, did not  
 14           comply with any of the requirements of MCC 13.505(D)(1) as it was obligated to, and did not  
 15           return any of the animals to any plaintiff.  
 16

17           24.     On August 19, 2020, two days after the date on which the statutory 144 hours  
 18           under MCC 13.505(D)(1) had passed since plaintiffs' properties had been impounded, plaintiffs  
 19           filed a complaint for declaratory relief and for replevin of the properties in a state civil action  
 20           entitled Woofin Palooza LLC et. al. v. Multnomah County Animal Services, Multnomah County  
 21           Circuit Court case number 20CV28978 ("the state declaratory relief action"), since defendant did  
 22           not respond to the letter or comply with any of the requirements of MCC 13.505(D)(1) as it was  
 23           obligated to and would not return any of the animals to any plaintiff.  
 24



1           25.     On November 19, 2020, after hearing was held on certain motions filed in the  
2 state declaratory relief action, the Honorable Angel Lopez issued an order granting plaintiffs' the  
3 declaratory relief they had sought, holding as a matter of law that:

4           “a. As of August 11, 2020, plaintiff Kassandra Marie Cunningham was the sole and  
5 exclusive legal owner of the animals “Ridley”, a male poodle, “Tali”, a female poodle,  
6 and “Ramsey”, a male terrier mix, with superior title in them over defendant, and legal  
7 ownership of them remained with plaintiff Cunningham as of that date and has not  
8 been relinquished by plaintiff Cunningham via any act of sale, gift, abandonment,  
9 operation of law, or via any other valid conveyance.

10           b. As of August 11, 2020, plaintiff Jeri Miller was the sole and exclusive legal owner of  
11 the animals “Pixel”, a female Yorkshire terrier mix, “Dougal”, a male poodle mix, and  
12 “Finnegan”, a male Scottish terrier, with superior title in them over defendant, and legal  
13 ownership of them remained with plaintiff Jeri Miller as of that date and has not been  
14 relinquished by plaintiff Jeri Miller via any act of sale, gift, abandonment, operation of  
15 law, or via any other valid conveyance.

16           c. As of August 11, 2020, plaintiff Samantha Miller was the sole and exclusive legal  
17 owner of the animals “Keeva”, a female terrier mix and “Lundy”, a male Scottish terrier,  
18 with superior title in them over defendant, and legal ownership of them remained with  
19 plaintiff Samantha Miller as of that date and has not been relinquished by plaintiff  
20 Samantha Miller via any act of sale, gift, abandonment, operation of law, or via any other  
21 valid conveyance.

22           d. As of August 11, 2020, plaintiff Natalie Rose was the sole and exclusive legal owner  
23 of the animals “Zuess”, a male English mastiff, “Wilson”, a male mastidoodle, and  
24  
25  
26

1 “Bobble”, a five month old kitten, with superior title in them over defendant, and legal  
2 ownership of them remained with plaintiff Rose as of that date and has not been  
3 relinquished by plaintiff Rose via any act of sale, gift, abandonment, operation of law, or  
4 via any other valid conveyance.

5 e. As of August 11, 2020, plaintiff Dezirae Jean Fenske was the sole and exclusive legal  
6 owner of the animals “Whiskers”, a female Yorkshire terrier mix and “Tigress”, a female  
7 terrier Chihuahua mix, with superior title in them over defendant, and legal ownership of  
8 them remained with plaintiff Fenske as of that date and has not been relinquished by  
9 plaintiff Fenske via any act of sale, gift, abandonment, operation of law, or via any other  
10 valid conveyance.

11 f. As of August 11, 2020, the corporate plaintiff was the sole and exclusive legal owner  
12 of the other animals listed in Exhibit A and all of the personal properties at issue in this  
13 action with superior title in them over defendant, and legal ownership of them remained  
14 with the corporate plaintiff as of that date and has not been relinquished by that plaintiff  
15 via any act of sale, gift, abandonment, operation of law, or via any other valid  
16 conveyance.

17 g. Defendant has acquired no title in the animals and other personal properties at issue in  
18 this action, and any claim of title or right defendant asserts in them is inferior to  
19 any plaintiff’s title and right.

20 h. At present, plaintiffs’ good and valuable title in the animals and other personal  
21 properties supersedes all competing claims to title in them by defendant and plaintiffs are  
22 therefore currently their true and exclusive legal owners.”

23  
24  
25  
26 26. Defendant did not seek reconsideration or judicial review of that order.

1           27.     Since the date of that order affirmatively determining that the plaintiffs’  
2 properties were solely and exclusively owned by plaintiffs, and since December 1, 2020, when  
3 the Honorable Angel Lopez of the Multnomah County Circuit Court stated in open court that “it  
4 has already been determined that plaintiffs are the owners of all the properties”, defendant has  
5 nevertheless refused to return any of the animals or other properties to plaintiffs but continues to  
6 hold them without lawful authority.  
7

8           28.     In addition, since the date of the impoundment on August 11, 2020, defendant has  
9 misrepresented numerous times to plaintiffs, to the public, and to judicial officials, including by  
10 explicit misrepresentations by an Assistant District Attorney for MCDA, that “criminal charges  
11 will be brought” against plaintiffs, yet, four months after the seizure no charges have been  
12 brought, nor is there any basis to bring any charges. In spite of being aware that no basis exists,  
13 and having been aware that no basis exists as of August 11, 2020, defendant nevertheless  
14 continues, through MCDA as its agent, to threaten to do so.  
15

16           29.     Plaintiffs are informed and believe that, starting back around June of 2020,  
17 defendant, in its execution of its investigatory and/or administrative functions and through an  
18 awareness of, participation in, and direct knowledge of, complaints, citations, disputes, and  
19 hearings involving plaintiffs, became actually and/or constructively aware of them and their  
20 lawful activities at and around 2310 NE 82<sup>nd</sup> Avenue in Portland, Oregon. From June of 2020 to  
21 the present, defendant either knew or should have known that plaintiffs were the lawful owners  
22 of plaintiffs’ animals, and that there was no competent evidence that any animal-related criminal  
23 statute had in fact been violated by any plaintiff.  
24  
25  
26

1           30.     Plaintiffs are informed and believe that defendant nevertheless disapproved  
2 personally of plaintiffs and of their lawful activities, and became antagonistic to, irritated about,  
3 and upset at them, and consequently, in the execution of their investigatory and/or administrative  
4 functions, developed animus toward plaintiffs and began aggressively investigating and  
5 surveilling plaintiffs with an aim toward personally harming them, shutting down their private  
6 lawful operations, and driving them out of the County in spite of the fact that plaintiffs were the  
7 lawful owners of plaintiffs' animals and that there was no competent evidence that any criminal  
8 statute had in fact been violated by any plaintiff in any manner.

10           31.     Plaintiffs are informed and believe that defendant's decisions to issue warrants  
11 against plaintiffs; to seize plaintiffs' valuable properties; and to unlawfully hold and withhold  
12 those properties under baseless threats to arrest, charge, and prosecute plaintiffs sometime in the  
13 unidentified future in spite of the lawful conduct of plaintiffs, were decisions based in significant  
14 part on the animus which defendant, through the execution of its investigatory and/or  
15 administrative functions, had developed toward plaintiffs personally.

17           32.     Plaintiffs are informed and believe that defendant's animus was revealed in part  
18 by defendant's actions in the seizure on August 11, 2020, in refusing to comply with the specific  
19 directions of the warrant to only seize "neglected and/or abused animals", and in seizing each  
20 and every animal on the premises regardless of whether the animal was or was not "neglected  
21 and/or abused" in spite of having the time, resources, knowledge, power, and opportunity to  
22 make careful and responsible determinations of whether any particular animal on the premises  
23 was in fact "neglected and/or abused".

25           33.     Plaintiffs are informed and believe that defendant's animus was also revealed in  
26 part by defendant's actions after the seizure of August 11, 2020, in returning numerous animals

1 which had been seized back to other owners, often without even requiring any objective proof of  
2 ownership at all, yet at the same time refusing to return plaintiffs' properties back to plaintiffs  
3 even in spite of plaintiffs' provision of equivalent or better proof of ownership.

4         34. Plaintiffs are informed and believe that defendant's animus was also revealed in  
5 part by defendant's actions in refusing to return plaintiffs' properties to them in spite of a valid  
6 and unchallenged state court order and the direct statements of a state court judge conclusively  
7 establishing plaintiffs' sole and exclusive ownership of the properties.

8         35. Plaintiffs are informed and believe that defendant's animus was also revealed in  
9 part by defendant's repeated public misrepresentations, including explicit misrepresentations by  
10 an Assistant District Attorney for MCDA, that "criminal charges will be brought" against  
11 plaintiffs when there is no basis to bring any charges, and throughout a four month period since  
12 the seizure during which that agent of defendant continued and continues to threaten to do so yet  
13 does not do so knowing that they cannot do so with any valid factual basis.

14         36. Plaintiffs are informed and believe that at every point upon and since defendant  
15 having a warrant issued against plaintiffs; upon seizing plaintiffs' valuable properties; and upon  
16 unlawfully holding and withholding those properties under baseless threats to arrest, charge, and  
17 prosecute plaintiffs in spite of the lawful conduct of plaintiffs, defendant either knew or should  
18 have known that plaintiffs were the lawful owners of plaintiffs' animals and other properties and  
19 that there was no competent evidence that any criminal statute had in fact been violated by  
20 plaintiffs, and should have made further and more competent investigation engaging in that  
21 pattern of conduct by its officers and agents, and should have considered and weighed the  
22 reliability and validity of the source, availability, usefulness, and veracity of information  
23  
24  
25  
26

1 obtained about plaintiffs and their actions in assessing and responding to that pattern of conduct,  
2 yet did not do so adequately or competently.

3 37. As of August 11, 2020, the date of the seizure of plaintiffs' properties, defendant  
4 had the ability to enact and implement procedures which would have enabled it to obtain legal  
5 ownership of plaintiff's properties through pre-conviction forfeiture proceedings per ORS  
6 167.347, providing for forfeiture of an accused person's animal to an animal care agency prior to  
7 the disposition of a criminal charge against the person. In addition, MCC 13.999(D)(4) enables  
8 the Director of Multnomah County Animal Services as an official of the County, to use county  
9 code procedures to formally "suspend the animal owner's or keeper's right to own or keep any  
10 animal in the county for a period of time specified by the director or hearings officer." Defendant  
11 nevertheless did not enact or implement any such procedures.  
12

13 38. In addition, as of August 11, 2020, the date of the seizure of plaintiffs' properties,  
14 defendant had the ability to enact and implement procedures which would have enabled it to  
15 place a lien on plaintiffs' properties through the assertion of lien rights per ORS 133.377(3), and  
16 to foreclose that lien and obtain legal ownership of plaintiffs' properties in a manner under ORS  
17 87.159(1) enabling "a governmental agency that, transports, pastures, feeds, cares for or provides  
18 treatment to an animal that has been impounded under ORS 167.345" to foreclose on that lien in  
19 a manner per ORS 87.159(2)(d), as well as to allow "any person who has an ownership interest  
20 in any impounded animal" to file a written petition challenging that lien and obtaining return of  
21 the animal in a manner under ORS 87.159(2)(a). Defendant nevertheless did not enact or  
22 implement any such procedures.  
23  
24  
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26



1           39.     Plaintiffs are informed and believe that at all relevant times hereto, defendant did  
2 not have an officially adopted policy, written rule, or regulation regarding the proper conveyance  
3 of the legal ownership of animals which had been impounded by a county officer from citizens  
4 engaging in lawful conduct, but instead employed, maintained or utilized a practice, usage, or  
5 custom which had the force of law in which county officers would impound animals of citizens  
6 engaging in lawful conduct without first inquiring into, investigating, or utilizing procedures  
7 providing for the proper conveyance of the legal ownership of such animals.  
8

9           40.     Plaintiffs are informed and believe that, at all relevant times hereto, defendant had  
10 constructive knowledge of that practice or custom, yet failed to alter, correct, modify, or  
11 eliminate it, and had constructive knowledge of the appropriate practice or custom of proper  
12 conveyance of the legal ownership of such animals, yet failed to implement or utilize it.  
13

14           41.     Alternatively, plaintiffs are informed and believe that at all relevant times hereto,  
15 defendant's actual practice, usage, or custom regarding the conveyance of the legal ownership of  
16 such animals was to simply seize them, to hold them without following county code or state  
17 statutory requirements entitling legal ownership to be properly conveyed, and to then either  
18 assume or proclaim that the animals' ownership had been conveyed to defendant when it had not  
19 actually been so conveyed by the correct operation of any law, regardless of any written policy,  
20 rule, or regulation regarding properly or validly dealing with such animals or circumstances.  
21

22           42.     Plaintiffs are informed and believe that, at all relevant times hereto, defendant had  
23 constructive knowledge of that practice or custom, yet failed to alter, correct, modify, or  
24 eliminate it.  
25  
26

1           43.     Alternatively, plaintiffs are informed and believe that at all relevant times hereto,  
2 defendant had failed to train or supervise its officers as to adequately, properly or competently  
3 inquire into, investigate, or utilize methods for the proper conveyance of the legal ownership of  
4 such animals through the correct use of county code provisions and/or state statutes.

5           44.     Plaintiffs are informed and believe that, at all relevant times hereto, defendant was  
6 either on actual or constructive notice of a pattern of its officers or an officer seizing such  
7 animals, holding them without following county code or state statutory requirements about legal  
8 ownership, and either assuming or proclaiming that the animals' legal ownership had been  
9 conveyed to defendant when it had not actually been so conveyed by the correct operation of any  
10 law, without first inquiring into, investigating, or utilizing appropriate procedures, and that  
11 defendant thereafter failed to conduct any training or supervising to address, rectify or resolve  
12 the problem.

13           45.     Throughout the four month period between the August 11<sup>th</sup> seizure of plaintiffs'  
14 animals and other properties and the filing of this federal civil rights action, defendant has never  
15 complied with any of the requirements of MCC 13.505(D)(1).

16           46.     Throughout the four month period between the August 11<sup>th</sup> seizure of plaintiffs'  
17 animals and other properties and the filing of this federal civil rights action, defendant has never  
18 instituted pre-conviction forfeiture proceedings per ORS 167.347.

19           47.     Throughout the four month period between the August 11<sup>th</sup> seizure of plaintiffs'  
20 animals and other properties and the filing of this federal civil rights action, defendant has never  
21 instituted pre-conviction forfeiture proceedings per ORS 167.347.

1           48.     Throughout the four month period between the August 11<sup>th</sup> seizure of plaintiffs'  
2 animals and other properties and the filing of this federal civil rights action, defendant has never  
3 asserted lien rights per ORS 133.377(3) or sought to foreclose any lien rights in order to obtain  
4 legal ownership of plaintiffs' properties per ORS 87.159(1).

5           49.     Throughout the four month period between the August 11<sup>th</sup> seizure of plaintiffs'  
6 animals and other properties and the filing of this federal civil rights action, defendant has never  
7 instituted criminal charges against any plaintiff at all.

8           50.     Since their original acquisition by plaintiffs, plaintiffs have asserted all exclusive  
9 legal rights, privileges, interests, powers, title, and obligations in their own animals and other  
10 properties against all others claiming such a right, and plaintiffs' claims of ownership are  
11 superior to all other claims of right or interest, and have been confirmed to be exclusive by the  
12 issuance of a valid and unchallenged state court order expressly stating that such is true.

13           51.     At no time since their original acquisition by plaintiffs, have plaintiffs ever  
14 relinquished ownership of their own animals or other properties to defendant, assigned rights in  
15 them to defendant, waived rights in them to defendant, ceded any authority or granted any  
16 permission to defendant nor to any agent of defendant to do so, nor has ownership of their own  
17 animals or other properties ever been conveyed to defendant through any sale, gift,  
18 abandonment, or via operation of law, a fact conclusively established by a valid and  
19 unchallenged state court order.

20           52.     As a direct consequence of defendants' actions and/or omissions in wrongfully  
21 holding and withholding plaintiffs' properties and in all of the regards recited above, plaintiffs  
22 have incurred a) special injuries in the form of damages in the amount of the special value of the  
23 animals that have been taken and wrongfully held and withheld, and the reasonable expenses in  
24  
25  
26

1 court costs and fees in consulting with and retaining counsel to aid them and represent them in  
 2 legal proceedings on those issues, and b) general injuries in the form of damages in amounts to  
 3 compensate plaintiffs for their distress, humiliation, injury to feelings and reputation, and stress,  
 4 all as more specifically set forth in the prayer below.

5  
 6 FIRST CLAIM FOR RELIEF –  
VIOLATION OF FEDERAL STATUTE (42 U.S.C. Section 1983)

7 53. Plaintiffs incorporate by reference each and every allegation contained in  
 8 paragraphs 1-52, inclusive, as set forth above.

9 54. At all relevant times hereto, defendant was in a position to provide for pre-  
 10 deprivation process. Plaintiffs have been deprived of the possession, use, and enjoyment of their  
 11 own animals and other properties as their valuable personal properties since August 11, 2020.  
 12 Defendant could have anticipated the risk of plaintiffs' deprivation, yet defendant did not enact  
 13 or implement any procedures a) enabling it to obtain legal ownership of plaintiffs' properties  
 14 through pre-conviction forfeiture proceedings, b) enabling it to place a lien on plaintiffs'  
 15 properties through the assertion of lien rights and then foreclosure of that lien to obtain legal  
 16 ownership of plaintiffs' properties, or c) enabling it to obtain legal ownership of plaintiffs'  
 17 properties through any other proceeding in accordance with law.  
 18  
 19

20 55. Defendant should have provided any or all such additional procedures as a  
 21 safeguard. The administrative burden and other societal costs associated with providing such  
 22 additional procedural protections was low compared with the value of the protections that would  
 23 have been afforded plaintiffs had any or all of the additional procedural protections been enacted  
 24 and implemented. Defendant did not do so and has thus unlawfully deprived plaintiffs of their  
 25 own animals and other properties as their valuable personal properties.  
 26

1           56.     Plaintiffs therefore currently have and have had rights of procedural due process,  
2     currently possess and have possessed constitutionally protected property interests in their  
3     animals and other properties as the properties at issue, and currently are and have been deprived  
4     of those due process and property interests without due process of law as a result of defendant's  
5     refusal to enact or implement the additional procedural protections as stated above.  
6

7           57.     Since August 11, 2020, by its actions and omissions as recited above, defendant  
8     has therefore directly caused a significant restriction upon and interference with plaintiffs'  
9     individual rights to procedural due process and to rights of possession and use of personal  
10    properties in violation of Amendments IV and V, as applied to defendant's actions under color of  
11    state law through Amendment XIV of the United States Constitution, actions which are therefore  
12    as well a violation of federal statutory provisions under 42 U.S.C. 1983 et seq.  
13

14           58.     In refusing to enact or implement the additional procedural protections as stated  
15    above, defendant has exercised power possessed by virtue of state law and made possible only  
16    because defendant as the wrongdoer is clothed with the authority of state law, and has therefore  
17    acted under color of state law in so refusing to enact or implement such additional procedural  
18    protections and in committing the restrictions and interferences as specifically described above.  
19

20           59.     Plaintiffs are granted a private right of action under 42 U.S.C. Section 1983 to  
21    bring private civil claims for relief against defendant for such misconduct.

22           60.     Defendant's conduct in refusing to enact or implement additional procedural  
23    protections and/or to return plaintiffs' exclusively owned personal properties in spite of being  
24    able to provide for pre-deprivation process and in spite of being required to return the  
25    exclusively owned personal properties, is the result of action on the part of the defendant as a  
26    government entity in which it has implemented or executed a policy statement, ordinance,

1 regulation, or decision officially adopted and promulgated by that body's officers, and/or is the  
2 result of the defendant's custom.

3 61. The deprivation of plaintiffs' rights of procedural due process and of their  
4 personal properties is a result of an official policy or custom made by defendant's lawmakers or  
5 by those whose edicts or acts may fairly be said to represent defendant's official policy, and/or is  
6 a result of an inadequate opportunity to obtain a remedy or an inadequate state law remedy by  
7 the state to enforce its law. The constitutional deprivation has been visited on plaintiffs pursuant  
8 to governmental custom regardless of whether such a custom has ever received formal approval  
9 through defendant's official decision-making channels.

11 62. The deprivations have resulted in and directly caused plaintiffs to suffer damages  
12 and deprivations in amounts and types more specifically set forth in the prayer below.

13 63. In addition, as of August 11, 2020, and at all relevant times hereto, plaintiffs  
14 possessed a protected property interest in their animals and other properties as the valuable  
15 personal properties at issue, and are and have been deprived of that specific property interest as a  
16 result of defendant's failure to follow applicable County code requirements under MCC  
17 13.505(D)(1) as described and stated above.

19 64. By its actions, defendant has therefore directly caused a significant restriction  
20 upon and interference with plaintiffs' individual rights to possess and use personal property, an  
21 interference that is in violation of federal statutory provisions under 42 U.S.C. 1983.

22 65. Defendant is liable for the underlying violation committed by its agents as non-  
23 policymaking employees where defendant's policies, practices, or procedures as alleged above  
24 were objectively deliberately indifferent to the likelihood that this particular violation would  
25 occur.  
26



1           66.     The deprivations alleged were due in part to defendant not having an officially  
2 adopted policy, written rule, or regulation regarding the valid conveyance of the legal ownership  
3 of such animals and other properties, but instead by it employing, maintaining or utilizing a  
4 practice, usage, or custom which had the force of law in which officers seize such animals and  
5 other properties, hold them without following county code or state statutory requirements, and  
6 either simply assume or proclaim that the legal ownership of the animals and other properties  
7 had been conveyed to the defendant when it had not actually been so conveyed by the  
8 appropriate operation of any law, without first inquiring into, investigating, or utilizing correct  
9 legal procedures, all of which resulted in and directly caused plaintiffs to suffer damages in  
10 amounts more specifically set forth in the prayer below.  
11

12           67.     Alternatively, the deprivations alleged were due to defendant having failed to  
13 train or supervise its officers or agents how to adequately, properly or competently inquire into,  
14 investigate, or utilize the valid conveyance of legal ownership of the animals and other  
15 properties, where defendant was on actual or constructive notice of a pattern of its officers or an  
16 officer seizing such animals and properties, holding them without following county code  
17 requirements or state statute, and either assuming or proclaiming that the legal ownership of the  
18 animals and other properties had simply been conveyed to defendant when it had not actually  
19 been so conveyed by the appropriate operation of any law, without first inquiring into,  
20 investigating, or utilizing correct legal procedures, and thereafter failing to conduct any training  
21 or supervising to rectify the problem, all of which resulted in and directly caused plaintiffs to  
22 suffer actual and compensatory damages in amounts more specifically set forth in the prayer  
23 below.  
24  
25  
26

SECOND CLAIM FOR RELIEF –  
REPLEVIN (Fed.R.C.P. 64(b) and ORCP 83)

68. Plaintiffs incorporate by reference each and every allegation contained in paragraphs 1-52, inclusive, as set forth above.

69. Plaintiffs currently have the only ownership property rights and interests in the animals and other properties at issue in this action, are the only owners of them, and are entitled to exclusive physical possession, custody, control, use, and enjoyment of them.

70. Defendant has wrongfully held and withheld the animals and other properties from plaintiffs' possession, custody, control, use, and enjoyment, and currently retains them in its possession or control even though it does not enjoy legal title to them, nor possess any legal interest or right in them superior to plaintiffs' rights.

71. Plaintiffs seek the immediate delivery of their animals and other properties, including the inanimate properties, back to their possession and intend to utilize provisional process pursuant to Fed.R.C.P. 64(b) and local rule Oregon Rule of Civil Procedure 83 in order to obtain that delivery before trial.

REQUEST FOR RELIEF

WHEREFORE, plaintiffs pray for judgment against defendant as follows:

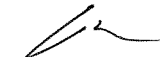
1. For actual and compensatory damages of \$500,000.00 and for statutory interest thereon for plaintiff Woofin Palooza, LLC;
2. For actual and compensatory damages of \$500,000.00 and for statutory interest thereon for plaintiff Samantha Miller;
3. For actual and compensatory damages of \$500,000.00 and for statutory interest thereon for plaintiff Jeri Miller;
4. For actual and compensatory damages of \$500,000.00 and for statutory interest thereon for plaintiff Kassandra Marie Cunningham;

5. For actual and compensatory damages of \$500,000.00 and for statutory interest thereon for plaintiff Natalie Rose;
6. For actual and compensatory damages of \$500,000.00 and for statutory interest thereon for plaintiff Dezirae Jean Fenske;
7. For the immediate return of the 104 dogs and cats and the inanimate properties identified in paragraph 12 above to plaintiff Woofin Palooza, LLC's possession;
8. For the immediate return of the animals "Keeva", a female terrier mix and "Lundy", a male Scottish terrier to plaintiff Samantha Miller's possession;
9. For the immediate return of the animals "Pixel", a female Yorkshire terrier mix, "Dougal", a male poodle mix, and "Finnegan", a male Scottish terrier to plaintiff Jeri Miller's possession;
10. For the immediate return of the animals "Ridley", a male poodle, "Tali", a female poodle, and "Ramsey", a male terrier mix to plaintiff Kassandra Marie Cunningham's possession;
11. For the immediate return of the animals "Zuess", a male English mastiff, "Wilson", a male mastidoodle, and "Bobble", a five month old kitten to plaintiff Natalie Rose's possession;
12. For the immediate return of the animals "Whiskers", a female Yorkshire terrier mix and "Tigress", a female terrier Chihuahua mix to plaintiff Dezirae Jean Fenske's possession;
13. For costs of suit incurred herein;
14. For reasonable attorneys fees pursuant to 42 U.S.C. Section 1988; and,
15. For such other and further relief as the Court may deem just and proper.

PLAINTIFFS HEREBY DEMAND A TRIAL BY JURY IN THIS ACTION.

DATED: December 7, 2020

GEORDIE DUCKLER, P.C.

By:   
Geordie Duckler, OSB #873780  
Attorney for Plaintiffs

CIVIL RIGHTS COMPLAINT FOR EQUITABLE  
RELIEF AND DAMAGES - 22

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